

\*\*E-Filed 12/8/2010\*\*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

CALEB FLITCROFT,

Petitioner,

v.

GREG LEWIS, Warden,

Respondent.

Case Number 5:10-cv-04901-JF

ORDER TO SHOW CAUSE

Petitioner, who is represented by counsel, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Venue is proper because Petitioner was sentenced in the Mendocino County Superior Court and is incarcerated at Pelican Bay State Prison, both located in the Northern District of California. *See* 28 U.S.C. § 2241(d) (providing that venue is proper in either the district in which the petitioner was convicted and sentenced or the district in which the petitioner is incarcerated).

IT IS ORDERED as follows:

(1) The Clerk of the Court shall serve by certified mail a copy of the petition and a copy of this Order upon counsel for Respondent, the Attorney General of the State of California. The Clerk of the Court also shall serve a copy of this Order upon counsel for Petitioner, Kent A.

Russell.

(2) Respondent shall, within sixty (60) days after receiving this order, file and serve upon Petitioner's counsel an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not issue. At the time the answer is filed, Respondent shall lodge with the Court all records relevant to a determination of the issues presented by the petition. If Respondent contends that Petitioner has failed to exhaust state remedies as to any ground for relief asserted in the petition, Respondent shall specify what state remedy remains available to Petitioner. If Respondent waives or concedes the issue of exhaustion, Respondent shall so state in the answer.

(3) Petitioner may file a traverse responding to matters raised in the answer within thirty (30) days after receiving the answer.

(4) Unless otherwise ordered by the Court, the matter will be deemed submitted upon the filing of the traverse or upon the expiration of time to file a traverse.

DATED: 12/8/2010

  
JEREMY FOGEL  
United States District Judge

1 A copy of this order was served on the following persons:

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3 Counsel for Petitioner:

4 Kent A. Russell  
5 Russell and Russell  
6 2299 Sutter Street  
San Francisco, CA 94115

7 Counsel for Respondent:

8 Office of the Attorney General of the State of California  
9 455 Golden Gate Avenue  
Suite 11000  
10 San Francisco, CA 94102-3664  
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